

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:08-cr-116

- vs -

District Judge Walter Herbert Rice

Magistrate Judge Michael R. Merz

JEROME HILL,

Defendant.

:

**ORDER ALLOWING AMENDMENT AND WITHDRAWING REPORT
AND RECOMMENDATIONS**

This § 2255 case is before the Court on Defendant Jerome Hill's "Motion under Rule 59(e)"(ECF No. 426). While Hill purports to bring the motion under Fed. R. Civ. P. 59(e), that rule governs motions to amend judgments, and what Hill seeks to amend is his Motion to Vacate under § 2255. Because Hill is proceeding pro se, he is entitled to a liberal construction of his pleadings, so the Court treats the motion as made under Fed. R. Civ. P. 15.

Under Rule 15, a party may amend his pleading once without court permission before an answer is served. In this case, no answer has been ordered, so it is appropriate to treat Hill's motion as amending his § 2255 Motion, which the Court will do.

The Magistrate Judge has already entered a Report and Recommendations based on the original § 2255 Motion which is no longer pertinent and is hereby WITHDRAWN. The

Magistrate Judge will conduct a new review of the case under Rule 4 of the Rules Governing § 2255 Cases and issue a new report based on that examination.

The Clerk shall terminate the original § 2255 Motion (ECF No. 424) as MOOT.

January 25, 2016.

s/ *Michael R. Merz*
United States Magistrate Judge